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SPEECH
OF
HON. HERMAN P. GOEBEL.

The House being in the Committee of the Whole House on the state of the Union and having under consideration the bill H. R. 17850—the naval appropriation bill—

Mr. GOEBEL said:

Mr. CHAIRMAN: Immigration and naturalization necessarily go hand in hand and are subjects of vital importance to the welfare of our common country. I am a firm believer in stringent immigration laws and in the strict enforcement of them. Several bills are now pending in this House on that subject, and I hope that in the near future some legislation will be enacted which will have a tendency to check the influx of an undesirable class of aliens. It is indeed unfortunate that, notwithstanding our present laws, we have received such a large and very undesirable class of foreigners. They are necessarily a menace to good government; and there is evidently a defect somewhere in our present system which has enabled this class of aliens to land in our midst.

But, Mr. Chairman, that subject is not before us at this time. We are now considering the bill introduced by the gentleman from New Jersey [Mr. HOWELL], as reported by the Committee on Immigration and Naturalization, which provides, in part, for a uniform rule of naturalization of aliens throughout the United States. I shall address myself especially to section 9 of the bill, which provides, among other things, "that no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not write in his own language or in the English language, and who can not read, speak, and understand the English language." The reason urged for this provision is found in the report of the committee, which reads as follows:

It has seemed to your committee that any alien of ordinary intelligence who desires to take advantage of these opportunities and to fit himself for citizenship in our country could, in five years' residence, which is required in the country before he can apply for naturalization, acquire sufficient education to comply with the requirements that he shall be able to either read in his own language or in the English language and speak, read, and understand the English language. If an alien be so deficient in mental capacity as to be unable to meet that requirement or so careless of the opportunities afforded him, it is the opinion of your committee that he would not make a desirable citizen and should be refused naturalization.

Mr. Chairman, no one will contend, as an abstract proposition, that it would not be better for the individual that he speak, read, and understand the English language; not because, in my judgment, it would make him a better citizen of the United States, but because it is the language of our country, and with it he ought to be familiar. But I resent the imputation that the

absence of that requirement makes him an undesirable citizen and, therefore, naturalization should be refused him. You will observe that by this bill, although an alien may be of good moral character, a firm believer in our form of government, and willing to support and defend the Constitution and laws, and who may possess all the other qualifications of good citizenship, yet, lacking this one qualification, namely, to be able to read, speak, and understand the English language, is absolutely disqualified. Again, has it occurred to the gentlemen advocating this measure that this is discriminating in favor of the English-speaking as against the German and every other non-English-speaking alien? Why this discrimination? Why discriminate, for instance, against the Germans? Have they now become so undesirable for lacking the qualification required in this bill; and why were they not so at any other time? Read the history of the United States and you will acknowledge that the Germans have taken an honorable part in the development of our nation; in the tendency toward government for the people and by the people and in the development of national and individual prosperity the German influence has made itself felt.

The German thought tends to strengthen the feeling that implies not only right, but duty. They have never wavered in their loyalty, and in that respect never gave blind obedience to any creed, party, or class, but ever marching on to a higher aim of the moral and intellectual growth of this nation. The share of the German in the wars of the United States is by no means limited to the rebellion. From the very beginning of their settlement in this country they have always stood ready to take their place in its defense. They took a full share in the war of 1812 and in the Mexican war, and at all times gave freely of their men and their means to the cause of liberty in the war of the rebellion, and wherever they were strongest in numbers they gave more than the proportionate strength to the forces raised for the defense of the Union. In those days the question was not raised whether he could read, speak, and understand the English language. I point with pride to my German fellow-citizens and to their history, that in war and in peace they have always done their duty.

But, Mr. Chairman, it is here urged that if an alien is so careless of the opportunities afforded him as not to be able to read, speak, and understand the English language naturalization ought to be refused to him. The fact is lost sight of that he may not have the opportunities; or that he may not be able to avail himself of such opportunities. It is no answer to say that if he does not understand our language, how can he understand our form of government and its requirements of him as a citizen?

Let me say to you that newspapers and other publications printed in his own language give him the desired information. By assimilating and coming in contact with our own people he is soon informed of the requirements of a citizen under our form of government. But, Mr. Chairman, we are dealing here with naturalization affecting Federal citizenship, as distinguished from State citizenship, and there is a wide distinction between the two. One carries obligations of a different nature than that of the other. But before discussing that proposition let me say that this bill does not provide for an examination or test. It would therefore depend entirely upon the judge before whom the applicant appeared whether he can, at least to his satisfac-

tion, read, speak, and understand the English language. In no instances, therefore, it will be observed, would such an examination or test be uniform. One judge may fix a high standard, while another may be more lax in the requirements. Again, an applicant may be able to speak and understand the English language, but not be able to read it; for, mark you, he must be able to read, speak, and understand the English language. How accurate shall he be in his reading, speaking, and understanding? Suppose the judge shall require as a test that the applicant speak correctly the name of the gentleman from Colorado [Mr. BONYNGE], or speak correctly the name of the gentleman from Hawaii [Mr. JONAH KUHIO KALANIANA'OLE], would the gentleman from Colorado insist that that individual would not make a good citizen, possessing all the other qualifications, and that naturalization ought to be refused him? It can be readily seen to what absurdities this provision may lead, and the only way to obviate that condition is to establish a board of examiners, nonpartisan in its character, who shall be governed by uniform rules, so that in the examination there may not enter the whims and prejudice of a partisan or the hatred of one against a class.

Now, Mr. Chairman, coming to the proposition to which I have already alluded, I contend that as Congress can only deal with Federal citizenship the educational qualification prescribed in this bill is not essential to Federal citizenship and that it was never contemplated by the Congress. In the first place, what is citizenship? It has been defined as "the status of a citizen, with its rights and privileges." "He is a member of a nation or a sovereign state, especially a republic, and one who owes allegiance to a government and is entitled to protection from it." (See Standard Dictionary (1898); Webster's Dictionary; Century Dictionary; 6 Am. and Eng. Ency. of Law, 2d ed.)

It does not necessarily follow from this definition that the grade or quality or privilege of citizenship must be identical in all citizens, even in a republican government. In many cases arising under our system it has been repeatedly decided that the bestowal of political privileges upon an individual is not essential to constitute him a citizen. (*See Wise on Citizenship, p. 3, and authorities there cited.*) There are two kinds of citizenship in this country, *national* and *State*, each distinct from the other. A person may be a citizen of the United States without enjoying State citizenship and the special rights and privileges which State citizenship confers. For prior to the adoption of the fourteenth amendment to the Constitution of the United States no mode existed of obtaining citizenship of the United States except by first becoming a citizen of some State; but after the adoption of the fourteenth amendment that controversy was set at rest, for that provision defines and declares who shall be citizens of the United States, namely, "all persons born or naturalized in the United States and subject to the jurisdiction thereof."

Congress is empowered by the amendment to enforce, with appropriate legislation, its provisions, and it did so by enacting "that all persons born in the United States and not subject to any foreign power, exclusive of Indians not taxed, shall be citizens of the United States." Whatever special rights and privileges it may be within the power of a State to confer upon

its citizens, there are certain constitutional rights which all "Federal citizens" enjoy in common, whether they are citizens of a State or not. As to all common rights, the Federal Constitution establishes an equality between all persons, although it may be unable to confer equality as to other privileges. These rights in common are known as privileges and immunities and are fundamental in character. Federal citizenship may be acquired by inheritance, by marital relations, by the union or transfer of foreign territory, by naturalization, by treaty, by special act of Congress, by the admission of a Territory to statehood. Such a citizen owes to the Government allegiance, service, and money by way of taxes. The Government in turn grants and guarantees him liberty of his person and conscience, the right of acquiring and possessing property, security in person, estate, and reputation. Anyone may be a citizen of the United States and yet not of any particular State, but not vice versa. The Supreme Court of the United States, in what is known as the "Slaughterhouse case" (16 Wallace, 36), held that "not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within a State to make him a citizen of it; it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union." Federal citizenship is totally unconnected with the right of suffrage or the elective franchise. It does not confer the right to vote. Federal citizenship confers no political rights whatever. Civil and political rights have been definitely disassociated by the fourteenth amendment. This view was strongly maintained long before the adoption of the fourteenth amendment by the minority in the Dred Scott case, who held that a slave's lack of political rights did not prevent his being a citizen with a right to sue in the courts. This, however, is no longer disputed.

A Federal citizen owes only a duty to the General Government, and that is limited in its extent. It must be remembered that the Federal Government has no greater power than that which the States have expressly granted and that all other powers have been reserved by the States. We must, therefore, conclude that the powers so granted are never exclusive of similar powers existing in the States, except when exclusive powers have been given, or the exercise of like powers is prohibited to the States, or when there is a direct repugnancy or incompatibility in the exercise of it by the States.

A closer study of the question will reveal how little has been conferred upon the Federal Government as to the right of creating Federal citizenship and how much has been retained by the States; for let me repeat that Federal citizenship requires only fidelity and obedience by the individual to his Government; he must bear his burden necessary to sustain the Government by the payment of taxes, and he must be ready to bear arms or render other personal service for the common defense and for the security of the liberties and general welfare of the Government. In return for this he receives the protection of his Government in the manner that I have already indicated.

I pause now to ask whether in conferring Federal citizenship, or whether in the enjoyment of the rights which such citizen-

ship confers, it is essential that the beneficiary be able to read, speak, and understand the English language, and whether such qualifications (if you may so term it) are essentially prerequisite to conferring citizenship and in the enjoyment of it. I contend that it never was contemplated by the States that any greater power be conferred upon the Federal Government in that regard than was absolutely necessary to safeguard the Government against an alien of bad character and not disposed to the good order and happiness of our Government; and that it was left to the State to enact all further restrictions, and this must be apparent.

The present acts of Congress relating to naturalization of aliens, except as to the amendments relating to the thirteenth and fourteenth amendments, has been in force for more than one hundred years. It has stood the test of time and expediency. What necessity is there for engrafting upon the Federal statutes such a qualification? Why not leave it, as it has been left, to the States to regulate, though Congress has the power to so prescribe? It might with some force be said that the educational qualification is essential in the exercise of political rights. Its wisdom, however, I question. These political rights, however, are conferred by State citizenship, as I have stated, and not by Federal citizenship. These rights were reserved by the States. Although the Federal authority within its scope is supreme and beyond the States, it can not prevent nor secure to its citizens rights and privileges which are not expressly or by implication placed under its jurisdiction. Therefore one of the greatest privileges of a State citizen is the right of suffrage, or the elective franchise. This, I have shown, is not conferred upon a Federal citizen. The privilege of voting arises under the constitutions of the States and not under the Constitution of the United States.

It is within the power of the State to prescribe the qualifications of a voter, and the power is almost without limitation. In some States the right to vote has been granted to persons not citizens. It can restrict the right to either sex or give it to both. The State may go to any length in determining the qualifications of voters. The United States circuit court, in the case of *The United States against Anthony* (11 Blatchford, 205), held that a State may, without violating a right derived from the Federal Constitution, provide that no person having gray hair or who has not the use of all his limbs shall be entitled to vote. The only restriction upon the States is that they can not exclude a citizen from the enjoyment of the franchise on account of race, color, or previous condition of servitude. It is true that a citizen of a State owes a dual allegiance, but the nature of the obligation is different.

I have tried to draw a distinction between a Federal citizen and a State citizen, and that the former has only civil rights while the latter has both civil and political rights. The qualifications prescribed by section 9 of this bill can have only a bearing or relate to the exercise of political rights, and hence are not essential or prerequisite to Federal citizenship.

Entertaining these views, I shall, at the proper time, move to strike out the objectionable feature. [Loud applause.]



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